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PATENT TRADEMARK OFFICE

Docket No.HUM00-23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON, Kristina ALLEN and Sunil PANDIT

Serial No. : 09/627,465

Filed : July 28, 2000

For : **Novel Human Gene Relating to Respiratory Disease and Obesity**

Group Art Unit : 1646

Examiner : To be Assigned

PETITION UNDER 37 C.F.R. §1.47(a)

Commissioner of Patents
Washington, D.C. 20231

Sir:

It is respectfully requested that the combined declaration and power of attorney in above-identified patent application be accepted without the signature of Sanil Pandit, one of the eight joint inventors of the subject matter of the application, pursuant to 37 C.F.R. § 1.47(a).

Inventor Sunil PANDIT does not respond to repeated requests for him to execute the combined declaration and power of attorney, following diligent efforts to reach him and to request that he sign this document, as detailed in the accompanying Statement of Facts.

Therefore, inventors Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON, and Kristina ALLEN are signing the combined

declaration and power of attorney on behalf of themselves and also on behalf of the non-signing inventor Sanil PANDIT in accordance with 37 C.F.R. §1.47(a).

This Petition is also accompanied by the following:

(1) a response to the Notice to File Missing Parts of a Nonprovisional Patent Application, Filing Date Granted, mailed October 5, 2000 from the United States Patent and Trademark Office;

(2) a combined declaration and power of attorney executed by joint inventors Tim Keith, Randall Little, Paul Van Erdewegh, Josée Dupuis, Richard Del Mastro, Jason Simon and Kristina Allen on behalf of themselves and also on behalf of the non-signing inventor Sunil Pandit.

(3) a check for the surcharge of \$130.00 for the filing of a belated declaration.

(4) a Statement of Facts, signed by Leslie Serunian of Morgan & Finnegan, LLP, retained by Genome Therapeutics Corporation to prosecute the above-referenced patent application, which accompanies this Petition and provides facts in support of the need of the signing inventors to sign the declaration for this application on behalf of themselves and an omitted inventor who refuses to sign the declaration, after diligent effort in accordance with 37 C.F.R. § 1.47(a);

(5) a petition pursuant to 37 C.F.R. §1.136(a) for a four (4) month extension of time to effect timely filing of the response to the Notice, the accompanying documentation and the petition under 37 C.F.R. §1.47(a);

(6) a check for \$1,390.00 (for the four month extension of time); and

(7) a check for \$130.00 for the requisite fee accompanying the petition under 37 C.F.R. §1.47(a).

The most current address known for the nonsigning inventor is stated in the Statement of Facts and is as follows: Sunil Pandit, 353 W Side Drive, Apt. 202, Gaithersburg, Maryland 20878 USA. Sunil Pandit's current telephone number is (301) 527-1324.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fee(s) which may be required for this Petition under 37 C.F.R. §1.47(a), and accompanying papers, or to credit any overpayment, to Deposit Account No. 13-4500, Order No. 2976-4037.

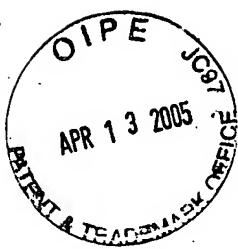
Respectfully submitted,

MORGAN & FINNEGAN, LLP

Dated: April 3, 2001

By: Leslie Serunian
Leslie Serunian
Registration No. 35,353

Correspondence Address
MORGAN & FINNEGAN, LLP
345 Park Avenue
New York, New York 10154-0053
Telephone: (212) 758-4800
Facsimile: (212) 751-6849



27123

PATENT TRADEMARK OFFICE

PATENT

Docket No.: HUM00-23

Morgan & Finnegan, LLP Ref. No.: 2976-4037

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Tim KEITH et al.

Serial No. : 09/627,465

Filed : July 28, 2000

For : *Novel Human Gene Relating to Respiratory Disease and Obesity*

Group Art
Unit 1646

Examiner : To be assigned

Commissioner of Patents
Washington, D.C. 20231

Attention: Box Missing Parts

RESPONSE TO NOTICE TO FILE MISSING PARTS OF
NONPROVISIONAL APPLICATION
FILING DATE GRANTED

Dear Sir:

This is in response to the Notice to File Missing Parts of Application (Filing Date Granted), dated October 5, 2000, in the above-identified patent application. As required, a copy of the October 5, 2000 Notice accompanies this response and is attached hereto. Filed concomitantly herewith is a Petition for an Extension of Time under 37 C.F.R. § 1.136(a) for four (4) months, and the required extension of time fee pursuant to 37 C.F.R. § 1.17(a)(4).

An executed Combined Declaration and Power of Attorney document is submitted herewith in compliance with 37 C.F.R. § 1.63. Because one of the inventors has refused to sign the declaration, it is signed by all of the other co-inventors on behalf of themselves and the non-signing

inventor according to 37 C.F.R. § 1.47(a). In addition, enclosed herewith is a Statement of Facts in Support of Filing on Behalf of an Omitted Inventor Who Refuses to Execute the Declaration (37 C.F.R. § 1.47(a)), and a Petition and fee according to 37 C.F.R. § 1.47(a).

A check in the amount of \$130.00 is also included in payment of the required surcharge pursuant to 37 C.F.R. § 1.16(e) for the filing of the enclosed executed Declaration in this application.

It is respectfully submitted that the filing of the completed Declaration and surcharge, along with the Petition and Fee for a four month Extension of Time, the Statement of Facts, the Petition under 37 C.F.R. § 1.47(a) and all required fees, satisfy the requirements for a complete response to the Notice.

AUTHORIZATION

The applicants have enclosed herewith all fees believed to be properly assessable in this application. However, should additional fee(s) be required by the filing of these papers, the Commissioner is hereby authorized to charge any additional fees, or to credit any overpayment, to Deposit Account No. 13-4500, Order No. 2976-4037.

In the event that an extension of time may be required in addition to that requested in the included petition for an extension of time, the Commissioner is hereby requested to grant a petition for that extension of time which is required to make this response timely, and is hereby authorized to charge the requisite extension of time fee, or credit any overpayment for an extension of time, to Deposit Account No. 13-4500, Order No. 2976-4037.

A duplicate copy of this paper is attached.

Respectfully submitted,

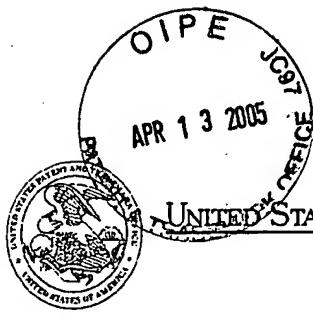
MORGAN & FINNEGAN, L.L.P.

Date: April 3, 2001

By: Leslie Serunian
Leslie Serunian
Reg. No. 35,353

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154-0053
(212) 758-4800 Telephone
(212) 751-6849 Facsimile



04-15-05

Page 1 of 1



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PATENT TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/627,465	07/28/2000	Tim Keith	Hum00-23

23856
GENOME THERAPEUTICS CORPORATION
100 BEAVER STREET
WALTHAM, MA 02453

FORMALITIES LETTER



OC000000005454468

Date Mailed: 10/05/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

04/18/2005 HMARZI1 00000031 09627465

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130.00 0P

EL 853 257 597 US

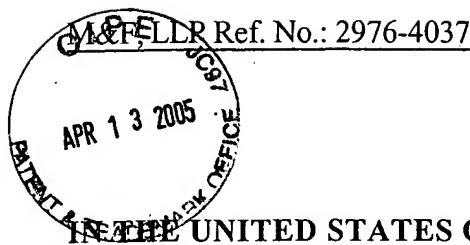


27123

PATENT TRADEMARK OFFICE

PATENT

Docket No.: HUM00-23



IN THE UNITED STATES OF AMERICA PATENT AND TRADEMARK OFFICE

Applicant(s) : Tim KEITH et al.

Serial or Patent No. : 09/627,465 Group Art Unit : 1646

Filed or Issued : July 28, 2000 Examiner : To Be Assigned

For : NOVEL HUMAN GENE RELATING TO RESPIRATORY
DISEASE AND OBESITY

Commissioner of Patents
Washington, DC 20231

STATEMENT OF FACTS IN SUPPORT OF FILING ON
BEHALF OF OMITTED INVENTOR WHO REFUSES TO
EXECUTE DECLARATION (37 C.F.R. § 1.47(a))

I, Leslie Serunian, hereby declare as follows:

1. I am a registered patent agent employed at Morgan & Finnegan, LLP ("Morgan & Finnegan"), 345 Park Avenue, New York, New York 10154-0053. Morgan & Finnegan has been retained by Genome Therapeutics Corporation ("GTC"), 100 Beaver Street, Waltham, Massachusetts 02453-8443 to prosecute and handle all matters relating to the above-referenced patent application in the U.S. Patent and Trademark Office. An Associate Power of Attorney/Change of Correspondence address to Morgan & Finnegan was filed in this application on February 16, 2001. A copy of this paper is attached as Exhibit 1. In my capacity as a registered patent agent, I prepare and prosecute patent applications, and prepare and file accompanying

documents to complete application filings. At Morgan & Finnegan, I am responsible for the handling and prosecution of the subject patent application.

2. I am making this declaration on behalf of GTC, 100 Beaver Street, Waltham, Massachusetts 02453-8443, at which the invention of the above-referenced patent application was made and to whom the above-identified patent application is to be assigned, as to the exact facts which are relied upon to establish the diligent effort made to secure the execution of the declaration and an assignment by the non-signing joint inventor, Sunil Pandit, who refuses to execute the same in the above-identified patent application. The filing of an executed declaration in the subject application is in response to a Notice to File Missing Parts (Filing Date Granted) mailed from the United States Patent and Trademark Office ("USPTO") on October 5, 2000.

3. I have first-hand knowledge of the facts stated herein.

DETAILS OF OMITTED INVENTOR WHO HAS REFUSED TO SIGN APPLICATION PAPERS

4. The inventors of above-identified patent application are Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON, Kristina ALLEN and Sunil PANDIT. The application was filed on July 28, 2000, without a declaration or an assignment, and with first inventor Tim Keith named on the Application Transmittal document, a copy of which is attached as Exhibit 2.

5. A Notice to File Missing Parts of a Nonprovisional Application -- Filing Date Granted -- was mailed from the U.S. Patent and Trademark Office for this application on

October 5, 2000. To prepare for submitting a declaration executed by all of the joint inventors in response to the Notice to File Missing Parts, I prepared a Combined Declaration and Power of Attorney document ("declaration") and an assignment document for this application, after obtaining the current residence addresses and whereabouts of the named inventors. For those inventors currently employed at GTC, I sent the declaration and assignment papers to GTC to be signed by the named inventors presently at GTC. Two of the inventors, Jason Simon and Sunil Pandit, are no longer employed at GTC. Therefore, I sent the complete patent application, including the specification, claims, drawings and abstract, along with a declaration and assignment to Jason Simon at his current residence address by overnight mail, along with a return self-addressed overnight mail envelope for his use in returning the completed documents to me. Jason Simon returned the executed declaration and assignment to me within five business days following receipt, as requested. I also sent the complete patent application, including the specification, claims, drawings and abstract, along with the declaration and assignment papers, to the current residence address of co-inventor, Sunil Pandit, who is no longer employed at GTC. As detailed hereinbelow, I have made numerous attempts to request that S. Pandit sign the declaration and assignment sent to him and return the completed papers for filing in the subject patent application; however, he remains unresponsive and noncompliant. Joint inventors Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON and Kristina ALLEN have each executed an assignment of their respective rights to the subject matter of the above-identified patent application to GTC. (A true copy of the assignment filed in this application on March 20, 2001, is attached as Exhibit 3).

6. Inventor Sunil Pandit is a former employee of GTC, who, along with joint inventors T. Keith, R. Little, P. Van Erdewegh, J. Dupuis, R. Del Mastro, J. Simon and K. Allen, invented the subject matter of the above-identified patent application during the course of their employment at GTC. These same individuals are named co-inventors on related patent application filings, namely, U.S. Serial No. 09/548,588, filed April 13, 2000; U.S. Serial No. 09/548,797, filed April 13, 2000; U.S. Serial No. 09/548,954, filed April 13, 2000 and U.S. Serial No. 09/627,937, filed July 28, 2000, the prosecution of which I am also overseeing at Morgan & Finnegan. A Statement of Facts accompanying a Petition under 37 C.F.R. §1.47(a) in response to a Notice to File Missing Parts, has been submitted in each of the aforementioned applications because Sunil Pandit has refused to sign the declaration and assignment documents sent to him for execution in each of the related patent application filings.

7. Pursuant to 35 U.S.C. § 116 and 37 C.F.R. § 1.47(a) in the instant application, inventors T. Keith, R. Little, P. Van Erdewegh, J. Dupuis, R. Del Mastro, J. Simon and K. Allen have executed the enclosed declaration on behalf of themselves and on behalf of non-signing joint inventor S. Pandit, who does not respond to or personally acknowledge my repeated attempts to contact him and to request that he sign the declaration and assignment documents sent to him. As is set forth below, Morgan & Finnegan, on behalf of GTC, has acted diligently and in good faith in making a *bona fide* attempt to request that inventor S. Pandit execute the declaration and assignment for the subject patent application and to obtain inventor S. Pandit's execution of the application papers for this patent application.

8. On February 14, 2001, I personally sent a transmittal letter and copies of the

complete patent application papers (including the specification, claims, drawings and abstract), together with a declaration of patent application to S. Pandit, at the following address: 353 W Side Drive, Apt. 202, Gaithersburg, MD 20878-3028 by overnight mail. A copy of the first page of the letter containing the tracking number of the overnight mail certificate is attached as Exhibit 4. In the transmittal letter accompanying the enclosed documents, I requested that S. Pandit read the application prior to signing and dating the declaration for patent application. Also included with the transmittal letter was a return overnight mail envelope self-addressed to Morgan & Finnegan. I explained in the letter that the self-addressed mailer was for S. Pandit's use in returning the signed declaration to me at Morgan & Finnegan. In addition, I requested that the signed and dated declaration be returned to me at Morgan & Finnegan in five (5) business days after he had received it. (A true copy of the complete letter that accompanied the application and related papers, and the declaration, is attached as Exhibit 5). On February 15, 2001, I used the overnight mail tracking number to confirm that the application and declaration package had been delivered to S. Pandit's Gaithersburg, MD address. A copy of the tracking information indicating that the overnight package had been delivered is attached as Exhibit 6.

9. On February 26, 2001, I personally sent another letter to S. Pandit, which accompanied an assignment document for his completion. The letter and assignment were sent to Sunil Pandit's current known address at 353 W Side Drive, Apt. 202, Gaithersburg, MD 20878-3028 by overnight mail. A copy of the first page of the letter containing the tracking number of the overnight mail certificate is attached as Exhibit 7. In the transmittal letter accompanying the enclosed assignment document, I requested that S. Pandit sign and date the assignment. I also

requested that his signature be notarized, but I informed him that notarization was not required. Also included with the transmittal letter was a return overnight mail envelope self-addressed to Morgan & Finnegan. A copy of the self-addressed, return overnight mailing label is attached as Exhibit 8. I explained in the February 26, 2001 letter that the self-addressed mailer was for S. Pandit's use in returning the completed assignment to me. In addition, I requested that the signed and dated assignment be returned to me at Morgan & Finnegan in five (5) business days after he had received it. (A true copy of the complete letter that accompanied the assignment document is attached hereto as Exhibit 9). On February 27, 2001, I used the overnight mail tracking number to confirm that the assignment package had been delivered to S. Pandit's Gaithersburg, MD address. A copy of the tracking information indicating that the overnight package had been delivered is attached as Exhibit 10.

10. On February 15, 2001, the day after I had overnight mailed the complete application and the declaration to S. Pandit, and had tracked the delivery of the package (See, ¶8 supra), I personally telephoned S. Pandit at his residence address in the evening after business hours to inform him that I had sent the complete application, and the declaration by overnight mail, and to confirm that S. Pandit would read the application and sign the declaration as indicated upon receipt. However, I was connected only to his telephone answering machine on which I left a message, identifying myself, explaining the purpose of the telephone call, and requesting that he call me to confirm that he had received my letter, the complete application and the declaration.

10a. At two different times after normal business hours on February 16, 2001, I telephoned S. Pandit at his residence address and again was connected only to his telephone

answering machine.

10b. On February 19, 2001, I again telephoned S. Pandit at his home telephone number during the day. S. Pandit's wife answered the telephone and told me that S. Pandit was not at home, but that he would be at home later and that I should call back between the hours of 7:30 PM and 9:30 PM that night. Thereafter, I placed three telephone calls to S. Pandit between the appointed hours of 7:30 PM and 9:30 PM on February 19, 2001, the last call being at about 9:30 PM. No one personally answered any of my calls; however, the answering machine connected and a message thereon requested that the caller leave a message, which I did.

10c. On the evening of February 20, 2001, I again called S. Pandit at his home telephone number. I again reached only the answering machine and I left another detailed message explaining that I had called and requesting that S. Pandit return my call to confirm that he would or would not sign the declaration for application.

10d. On February 27, 2001, I telephoned S. Pandit at his home at two separate times -- at 8:40 PM and at 9:55 PM -- to confirm that he had received the assignment document sent to him on February 26, 2001, as well as the previously-sent documents, and to determine if he would sign the declaration and assignment documents as I had requested. Both of my calls were not answered, although I was connected to the answering machine. At the time of the second call, I left a detailed message for S. Pandit to kindly call me collect at my office telephone number to discuss the papers that had been sent to him.

10e. On March 2, 2001, I telephoned S. Pandit at his home telephone number in the

evening after normal business hours. No one answered the telephone. I again left a message on the answering machine in which I requested that he call me, collect, if necessary, so that I might speak to him directly regarding the application, declaration and assignment documents.

11. In spite of numerous attempts to speak directly to S. Pandit, he did not personally answer his telephone at any time. Also, despite my repeated messages and requests asking that he call me, and/or kindly answer his telephone, I have received no return telephone calls from Sunil Pandit. I have received no form of communication from him. In addition, to date, S. Pandit has not returned either an executed declaration or an executed assignment document as requested.

12. On March 7, 2001, I sent S. Pandit a letter by certified mail which confirmed that he intends not to sign the declaration and assignment documents that have been sent to him for the above-identified patent application. (Exhibit 11). No response to this letter has been received from S. Pandit.

13. On March 16, 2001, the Federal Express Mail Office in Rockville, MD telephoned the mailroom at Morgan & Finnegan and reported that the apartment rental office of S. Pandit's 353 W Side Drive, Gaithersburg, MD address had returned the Federal Express package that had been delivered there on February 27, 2001. I immediately telephoned the Federal Express office and was told by a representative that Federal Express had tried, on three separate occasions, to deliver the overnight package directly to S. Pandit's apartment (Apt. No. 202) on February 27, 2001, but that no one had answered the door. On that same day, the package for S. Pandit was left with and signed for by an individual in the apartment rental office in the building at 353 W Side Drive, Gaithersburg, MD. Thereafter, on March 16, 2001, an individual in the rental office at 353 W Side Drive,

Gaithersburg, MD telephoned the Federal Express office and told the Federal Express representative that S. Pandit had moved. After learning of the above account, I instructed Federal Express to return the undelivered package to me at Morgan & Finnegan.

14. Upon hearing from the Federal Express representative that S. Pandit had allegedly moved from the 353 W Side Drive, Gaithersburg, MD address, I telephoned S. Pandit at his current telephone number at about 4:15 PM on March 16, 2001. I spoke with his wife who answered the telephone. Mrs. Pandit informed me that she and Sunil Pandit indeed still lived at the same address, i.e., 353 W Side Drive, Apt. 202, Gaithersburg, MD 20878, and that they had not moved. Mrs. Pandit did not answer any of my questions concerning the packages and documents that I had sent to her husband, and claimed to have no knowledge of the reason that her husband refused to speak with me.

15. As set forth in ¶6 hereinabove, S. Pandit has also refused to sign the declaration and assignment documents for related patent applications on which he is a named co-inventor and which were previously sent to him. The actions of Sunil Pandit, as recounted herein, evidence his unwillingness to cooperate in the filing of a complete patent application. In view of S. Pandit's continued refusal to respond to my telephone calls and messages, his refusal to personally acknowledge receipt of the documents sent to him, and his refusal to execute and return the completed declaration and assignment papers sent to him within the requested time period and beyond, Sunil Pandit is and remains unresponsive and uncooperative. Accordingly, the above-identified patent application is made by the other inventors on behalf of themselves and the nonsigning inventor, Sunil Pandit, in compliance with 37 C.F.R. §1.47(a).

STATEMENT OF CURRENT ADDRESS

16. Upon information and belief, Mr. Sunil Pandit's current residence address is 353 W Side Drive, Apt. 202, Gaithersburg, MD 20878-3028 USA.

17. Upon information and belief, Mr. Sunil Pandit's current telephone number is (301) 527-1324 for his residence address in Gaithersburg, MD.

18. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: April 3, 2001

By: Leslie Serunian
Leslie Serunian
Reg. No. 35,353

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APR 13 2005
U.S. PATENT AND TRADEMARK OFFICE
Applicants : Tim Keith et al. Group Art Unit: TBA
Serial No. : 09/627,465 Examiner: TBA
Filed : July 28, 2000
For : *Novel Human Genes Relating to Respiratory Diseases and Obesity*
Commissioner of Patents
Washington, DC 20231

EXPRESS MAIL CERTIFICATE

Express Mail Label No. EL 762 531 095 US

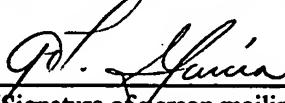
Date of Deposit February 16, 2001

I hereby certify that the following attached paper(s) or fee

- 1) Transmittal letter for Associate Power of Attorney and Change of Correspondence Address (1 page);
- 2) Associate Power of Attorney/Change of Correspondence Address document (2 pages); and
- 3) Return Postcard

is/are are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to: Commissioner of Patents, Washington, D.C. 20231.

E. Garcia
(Typed or printed name of person mailing paper(s) or fee)


(Signature of person mailing paper(s) or fee)

CORRESPONDENCE ADDRESS:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154
(212) 758-4800
(212) 751-6849 (Facsimile)

M&F, LLP Ref. No.: 2976-4037

PATENT
Docket No. HUM00-23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Tim KEITH et al. Art Unit: TBA
Serial No. : 09/627,465 Examiner: TBA
Filed : July 28, 2000
For : *Novel Human Genes Relating to Respiratory Diseases and Obesity*

Commissioner of Patents
Washington, DC 20231

TRANSMITTAL FOR ASSOCIATE POWER OF ATTORNEY AND CHANGE OF
CORRESPONDENCE ADDRESS

Sir:

Transmitted herewith is an Associate Power of Attorney and Change of Correspondence Address document to be filed in the above-identified patent application.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

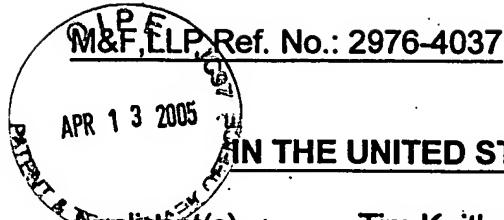
Dated: February 16, 2001

By: Leslie Serunian
Leslie A. Serunian
Registration No. 35,353

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053
(212) 758-4800 (Office)
(212) 751-6849 (Fax)

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Best Available Copy



M&F, LLP Ref. No.: 2976-4037

PATENT
Docket No.: HUM00-23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Tim Keith et al.
Serial No. : 09/627,465 Group Art Unit: TBA
Filed : July 28, 2000 Examiner: TBA
For : *Novel Human Genes Relating to Respiratory Diseases and Obesity*
Commissioner of Patents
Washington, D.C. 20231

ASSOCIATE POWER OF ATTORNEY and
CHANGE OF CORRESPONDENCE ADDRESS

Sir:

Pursuant to the provisions of 37 C.F.R. §§1.33 and 1.34 and MPEP §402.02, the undersigned attorney of record hereby appoints the following representatives of the law firm of Morgan & Finnegan, L.L.P. as associate attorneys in the above-identified patent application to prosecute this application, to receive the patent, and to transact all business in the Patent and Trademark Office in connection with the above-identified application:

John C. Vassil (Reg. No. 19,098), Alfred P. Ewert (Reg. No. 19,887),
David H. Pfeffer (Reg. No. 19,825), Harry C. Marcus (Reg. No. 22,390), Robert E. Paulson (Reg. No. 21,046), Stephen R. Smith (Reg. No. 22,615), Kurt E. Richter (Reg. No. 24,052), J. Robert Dailey (Reg. No. 27,434), Eugene Moroz (Reg. No. 25,237), John F. Sweeney (Reg. No. 27,471), Arnold I. Rady (Reg. No. 26,601), Christopher A. Hughes (Reg. No. 26,914), William S. Feiler (Reg. No. 26,728), Joseph A. Calvaruso (Reg. No. 28,287), James W. Gould (Reg. No. 28,859), Richard C. Komson (Reg. No. 27,913), Israel Blum (Reg. No. 26,710), Bartholomew Verdirame (Reg. No. 28,483), Maria C.H. Lin (reg. No. 29,323), Joseph A. DeGirolamo (Reg. No. 28,595), Michael P.

600549_1

EI 762 531 095 US EL 853 257 597 US

Best Available Copy

Dougherty (Reg. No. 32,730), Seth J. Atlas (Reg. No. 32,454), Andrew M. Riddles (Reg. No. 31,657), Bruce D. DeRenzi (Reg. No. 33,676), Mark J. Abate (Reg. No. 32,527), John T. Gallagher (Reg. No. 35,516), Steven F. Meyer (Reg. No. 35,613), Kenneth H. Sonnenfeld (Reg. No. 33,285), Tony V. Pezzano (Reg. No. 38,271), Andrea L. Wayda (Reg. No. 43,979), Walter G. Hanchuk (Reg. No. 35,179), John W. Osborne (Reg. No. 36,231), Robert K. Goethals (Reg. No. 36,813), Leslie A. Serunian (Reg. No. 35,353), and Caryn DeHoratius (Reg. No. 45,881) of Morgan & Finnegan, L.L.P. whose address is: 345 Park Avenue, New York, New York, 10154; and Michael S. Marcus (Reg. No. 31,727), John E. Hoel (Reg. No. 26,279) and Stanley B. Green (Reg. No. 24,351) of Morgan & Finnegan, L.L.P., whose address is 1775 Eye Street, Suite 400, Washington, D.C. 20006.

Please address all future correspondence in the above-identified application to:

Richard C. Komson
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154-0053
Telephone No.: (212) 758-4800
Facsimile No.: (212) 751-6849

Respectfully submitted,

GENOME THERAPEUTICS CORPORATION

Date: 2/14/01

By: 

Nina L. Pearlmuter
Reg. No. 35,639
Patent Department
Genome Therapeutics Corporation
100 Beaver Street
Waltham, MA 02421-4799



Please type a plus sign (+) inside this box →

Approved for use through 09/30/2000. OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. § 1.53(b))

Attorney Docket No. HUM00-23

First Inventor or Application Identifier Tim Keith

Title Novel Human Genes Relating to Respiratory Diseases and Obesity

Express Mail Label No. EL442001935US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. * Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. Specification [Total Pages 94]
(preferred arrangement set forth below)
 - Descriptive title of the Invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to Microfiche Appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
3. Drawing(s) (35 U.S.C. 113) [Total Sheets 24]
4. Oath or Declaration [Total Pages]
 - a. Newly executed (original or copy)
 - b. Copy from a prior application (37 C.F.R. § 1.63(d))
(for continuation/divisional with Box 16 completed)
 - i. **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. §§ 1.63(d)(2) and 1.33(b).

***NOTE FOR ITEMS 1 & 13: IN ORDER TO BE ENTITLED TO PAY SMALL ENTITY FEES, A SMALL ENTITY STATEMENT IS REQUIRED (37 C.F.R. § 1.27), EXCEPT IF ONE FILED IN A PRIOR APPLICATION IS RELIED UPON (37 C.F.R. § 1.28).**

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

5. Microfiche Computer Program (Appendix)
6. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
 - a. Computer Readable Copy
 - b. Paper Copy (identical to computer copy)
 - c. Statement verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

7. Assignment Papers (cover sheet & document(s))
8. 37 C.F.R. § 3.73(b) Statement Power of (when there is an assignee) Attorney
9. English Translation Document (if applicable)
10. Information Disclosure Statement (IDS)/PTO-1449 Copies of IDS Citations
11. Preliminary Amendment
12. Return Receipt Postcard (MPEP 503) (2)
(Should be specifically itemized)
 - * Small Entity Statement(s) Statement filed in prior application, (PTO/SB-09-12)
 - 13. Status still proper and desired
 - 14. Certified Copy of Priority Document(s)
(if foreign priority is claimed)
 - 15. Other: _____

16. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment
 Continuation Divisional Continuation-in-part (CIP) of prior application No: _____

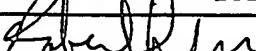
Prior application information: Examiner _____

Group / Art Unit: _____

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 4b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a reference is made to the prior application and is inadvertently omitted from the submitted application parts.

17. CORRESPONDENCE ADDRESS

<input type="checkbox"/> Customer Number or Bar Code Label		23856	or <input type="checkbox"/> Correspondence address below	
(Insert Customer No. or Attach bar code label here)				
Name	PATENT TRADEMARK OFFICE Nina L. Pearlmutter, Esq. Genome Therapeutics Corporation			
	100 Beaver Street			
Address	Waltham	State	MA	Zip Code
City	Waltham	State	MA	Zip Code
Country	USA	Telephone	781-398-2300	Fax
Telephone		781-398-2607		

Name (Print/Type)	Robert L. Spadafora	Registration No. (Attorney/Agent)	46,197
Signature			Date 7/28/00

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

ASSIGNMENT OF APPLICATION FOR PATENT

WHEREAS:

Tim Keith, 324 North Road, Bedford, MA 01730

Randall Little, 73 Elm Road #6, Newtonville, MA 02460

Paul Van Eerdewegh, 25 Linden Circle, Weston, MA 02493

Josée Dupuis, 111 Fairway Drive, Newton, MA 02465

Richard Del Mastro, 31 Lakeshore Drive, Norfolk, MA 02056

Jason Simon, 1019 Summit Avenue, Westfield, NJ 07090

Kristina Allen, 11 Oliver Lane, Hopkinton, MA 01749

Sunil Pandit, 353 W Side Drive, Apt. 202, Gaithersburg, MD 20878-3028

(hereinafter referred to as ASSIGNOR(S)), has made a discovery or invention entitled:

Novel Human Genes Related to Respiratory Diseases and Obesity

for which application for Letters Patent of the United States has been executed on even date herewith,

for which application for Letters Patent of the United States has been filed on July 28, 2000, under Serial No. 09/627,465, and

WHEREAS:

Genome Therapeutics Corporation, 100 Beaver Street, Waltham, MA 02453

(hereinafter referred to as ASSIGNEE), is desirous of acquiring the entire interest in, to and under said invention and in, to and under Letters Patent or similar legal protection to be obtained therefor in the United States and in any and all foreign countries.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN:

Be it known that for valuable consideration by ASSIGNEE to ASSIGNOR(S), the receipt of which is hereby acknowledged, ASSIGNOR(S) hereby sells, assigns and transfers to ASSIGNEE, its successors, legal representatives and assigns, the full and exclusive right, title and interest to said discovery or invention in the United States and its territorial possessions and in all foreign countries and to all Letters Patent or similar legal protection in the United States and its territorial possessions and in any and all foreign countries to be obtained for said invention by said application or any continuation, division, renewal, substitute, reissue or reexamination thereof or any legal equivalent thereof in a foreign country for the full term or

I, SAID ASSIGNOR(S), hereby authorize and request the Commissioner of Patents and Trademarks of the United States of America and any Official of any country or countries foreign to the United States of America whose duty it is to issue Letters Patent on applications as aforesaid, to issue all such Letters Patent for said discovery or invention to the ASSIGNEE, as assignee of the entire right, title and interest in, to and under the same, for the sole use and behalf of the ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

I, SAID, ASSIGNOR(S), hereby covenant that I have full right to convey the entire right, title and interest herein sold, assigned, transferred and set over;

AND I, SAID ASSIGNOR(S) hereby further covenant and agree that the ASSIGNEE, its successors, legal representatives, or assigns, may apply for foreign Letters Patent on said discovery or invention and claim the benefits of the International Convention, and that I will, at any time, when called upon to do so by the ASSIGNEE, its successors, legal representatives, or assigns, communicate to the ASSIGNEE, its successors, legal representatives, or assigns, as the case may be, any facts known to me respecting said discovery or invention, and execute and deliver any and all lawful papers that may be necessary or desirable to perfect the title to the said discovery or invention, the said applications and the said Letters Patent in the ASSIGNEE, its successors, legal representatives and assigns, and that if reissues or reexaminations of the said Letters Patent or disclaimers relating thereto, or divisions, continuations, or refilings of the said applications, or any thereof, shall hereafter be desired by the ASSIGNEE, its successors, legal representatives, or assigns, I will, at any time, when called upon to do so by the ASSIGNEE its successors, legal representatives, or assigns, sign all lawful papers, make all rightful oaths, execute and deliver all such disclaimers and all divisional, continuation, reissue and reexamination applications so desired, and do all lawful acts requisite for the application for such reissues and the procuring thereof and for the filing of such disclaimers and such applications, and generally do everything possible to aid the ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said invention or discovery in all countries, all without further compensation but at the expense of the ASSIGNEE, its successors, legal representatives and assigns.

Signed:

(1) Tim Keith
Tim Keith3/16/01
Date

On this 16 day of March, 2001, before me came Tim Keith, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Donna Boudreau
Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this 16 day of March, 2001.

STATE OF Massachusetts)
COUNTY OF Middlesex) ss.

DONNA BOUDREAU
Notary Public
My Commission Expires
June 21, 2007

(2) Randall Little
Randall Little3/21/01
Date

On this 2 day of March, 2001, before me came Randall Little, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Donna Boudreau
Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this 2 day of March, 2001.

STATE OF Massachusetts)
COUNTY OF Middlesex) ss.

DONNA BOUDREAU
Notary Public
My Commission Expires
June 21, 2007

(3)

IV.4
Paul Van eerewegh
E 4

Date

3/2/01

On this 2 day of March, 2001, before me came Paul Van eerewegh, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Donna Boudreau

Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this 2 day of March, 2001.

STATE OF Massachusetts)
) ss.
COUNTY OF Middlesex)

DONNA BOUDREAU
Notary Public
My Commission Expires
June 21, 2007

(4)

Josée Dupuis
Josée Dupuis

Date

3/2/01

On this 2 day of March, 2001, before me came Josée Dupuis, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Donna Boudreau

Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this 2 day of March, 2001.

STATE OF Massachusetts)
) ss.
COUNTY OF Middlesex)

DONNA BOUDREAU
Notary Public
My Commission Expires
June 21, 2007

(5)



Richard Del Mastro

13th March, 2001

Date

On this 13 day of March, 2001, before me came Richard Del Mastro, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.



Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this 13 day of March, 2001.

STATE OF Massachusetts)
COUNTY OF Middlesex) ss.

DONNA BOUDREAU
Notary Public
My Commission Expires
June 21, 2007

(6)

Jason Simon

Date

On this _____ day of _____, 2001, before me came Jason Simon, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this _____ day of _____, 2001.

STATE OF _____)
COUNTY OF _____) ss.

(5)

Richard Del Mastro

Date

On this _____ day of _____, 2001, before me came Richard Del Mastro, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this _____ day of _____, 2001.

STATE OF _____
COUNTY OF _____) ss.

(6)

Jason Simon

Date

3/21/01

On this 21 day of March, 2001, before me came Jason Simon, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this 21 day of March, 2001.

STATE OF New Jersey
COUNTY OF Union) ss.

PATRICIA CITARELLA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Jan. 11, 2004

(7) Kristina Allen
Kristina Allen

March 2, 2001

On this 2 day of March, 2001, before me came Kristina Allen, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Anna Bandy
Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this 2 day of
March, 2001.

STATE OF Massachusetts)
COUNTY OF Middlesex) SS.

DONNA BOUDREAU
Notary Public
My Commission Expires
June 21, 2007

(8) _____
Sunil Pandit

Date

On this _____ day of _____, 2001; before me came Sunil Pandit, to me known to be the person of that name mentioned in, and who executed the foregoing Assignment and acknowledged that he/she executed it.

Notary Public

IN WITNESS WHEREOF, I have hereto set my hand and seal this _____ day of _____, 2001.

STATE OF _____)
COUNTY OF _____) SS.

MORGAN & FINNEGAN, L.L.P.

A Registered Limited Liability Partnership

345 PARK AVENUE
NEW YORK, NEW YORK 10154-0053

(212) 758-4800

FACSIMILE: (212) 751-6849
www.morganfinnegan.com

WASHINGTON OFFICE
1775 EYE STREET, N.W.
SUITE 400

WASHINGTON, D.C. 20006-2401
TEL.: (202) 857-7887
FACSIMILE: (202) 857-7929

WRITER'S DIRECT DIAL NUMBER:

(212) 415-8751

laserunian@morganfinnegan.com
February 14, 2001

JOHN C. VASSIL
ALFRED P. EWERT[†]
DAVID H. PFEFFER
HARRY C. MARCUS
ROBERT E. PAULSON
STEPHEN R. SMITH
KURT E. RICHTER
J. ROBERT DAILEY
EUGENE MOROZ
JOHN F. SWEENEY[†]
ARNOLD I. RADY[†]
CHRISTOPHER A. HUGHES
WILLIAM S. FEILER[†]
JANET DORE
JOSEPH A. CALVARUSO
JAMES W. GOULD[†]
RICHARD C. KOMSON
ISRAEL BLUM
CHRISTOPHER K. HU
BARTHOLOMEW VERDIRAME
DICKERSON M. DOWNING

MARIA C. H. LIN
JOSEPH A. DEGIROLAMO
MICHAEL P. DOUGHERTY
SETH J. ATLAS
ANDREW M. RIDDLE
BRUCE D. DeRENZI
MICHAEL M. MURRAY
MARK J. ABATE
JOHN T. GALLAGHER
STEVEN F. MEYER
KENNETH H. SONNENFELD
DAVID H.T. KANE
SIEGRUN D. KANE
TONY V. PEZZANO
ANDREA L. WAYDA
WALTER G. HANCHUK[†]
JOHN W. OSBORNE
BRUCE D. RADIN
ROBERT K. GOETHALS

RESIDENT PARTNERS IN WASHINGTON
MICHAEL S. MARCUS[†]
JOHN E. HOEL[†]
STANLEY B. GREEN[†]

COUNSEL
JEROME G. LEE
JOHN D. FOLEY
THOMAS P. DOWLING
JOHN A. DIAZ
ROGER S. SMITH
JOSEPH C. REDMOND, JR.[†]
DAVID A. LOEWENSTEIN
KATHLEEN E. McCARTHY
HERBERT BLECKER

JOHN D. MORGAN
1893-1939
GEORGE B. FINNEGAN, JR.
1930-1998
HOBART N. DURHAM
1930-1969
GRANVILLE M. PINE
1939-1994
ALFRED L. HAFFNER, JR.
1958-2000
WARREN H. ROTERT
1960-2000

SCOTT D. GREENBERG
MARY J. MORRY
CINDY M. ZELSON
PETER N. FILL
KENNETH S. WEITZMAN
RICHARD STRAUSSMAN
DOROTHY R. AUTH
DAVID V. ROSSI
GERARD A. HADDAD
RICHARD W. ERWINE
MICHAEL O. CUMMINGS
STEPHEN J. MANETTA
RICHARD W. BORK
KIMBER L. WILSON
JOHN T. MOEHRINGER
MARK J. SCHILDKRAUT
J. STEVEN RUTT[†]
CHRISTOPHER J. GASPART[†]
SYBIL A. LOMBILLO
MATTHEW BLACKBURN[†]
JAMES HWA
BRETT M. HUTTON
JUSTIN L. KRIEGER
GARRETH A. SAROSI
WILLIAM BENJAMIN TABLER, III
NOAH M. LEIBOWITZ
TOD M. MELGAR
MAREN COBURN
JOHN KHEIT[†]
GERARD REINHARDT[†]
PETER ZURA[†]
KEATS A. QUINALTY[†]
TINI THOMAS
DAVID M. LA BRUNO[†]
CHARLES A. RATTNER[†]

KEITH J. MCWHA[†]
CAROL N. GREEN
GREGORY PERONE[†]
ARUN CHANDRA
KENNETH P. WASZKIEWICZ[†]
CHARLES P. GUARINO
ERICKA K. DEWEY
MAUREEN MORAN
MAUREEN McCABE
PAULA K. WITTMAYER[†]
THOMAS A. MORRISON[†]
ROBERT M. POLLARO[†]
KIMBERLY A. MULLER[†]
KEVIN C. ECKER

SETH SILVERMAN

SCIENTIFIC ADVISORS
KATHRYN M. BROWN, PH. D.
LESLIE A. SERUNIAN, PH. D.
DARRYL H. STEENSMAN, PH. D.
JAMES P. DEMERS, PH. D.
SUNGHO HONG, PH. D.
CARYN DEBORATIUS, PH. D.
EVELYN M. KWON, PH. D.

[†]NOT ADMITTED IN NEW YORK
[†]ADMITTED IN WASHINGTON, D.C.

VIA FEDERAL EXPRESS

Sunil Pandit, Ph.D.
353 W Side Drive
Apartment 202
Gaithersburg, MD 20878-3028

4184 4869 6089

Re: Patent Application of T. Keith et al.
U.S. Serial No. 09/627,465; Filed: July 28, 2000
**NOVEL HUMAN GENES RELATED TO RESPIRATORY
DISEASES AND OBESITY**
Our Reference: 2976-4037; GTC Reference: HUM00-23

Dear Dr. Pandit:

We have been retained to prosecute and handle all matters related to the above-referenced patent application in the U.S. Patent and Trademark Office. A declaration signed and dated by all of the named inventors must be filed in this application in compliance with 37 C.F.R. §§1.63 and 1.68. As you are a named co-inventor on the subject patent application, we are forwarding to you the declaration and copies of all relevant papers for your review and signature.

MORGAN & FINNEGAN, L.L.P.

A Registered Limited Liability Partnership

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RESIDENT PARTNERS IN WASHINGTON

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WASHINGTON OFFICE
1775 EYE STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20006-2401
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WRITER'S DIRECT DIAL NUMBER:

(212) 415-8751

laserunian@morganfinnegan.com
February 14, 2001

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Sunil Pandit, Ph.D.
February 14, 2001
Page 2

Accordingly, we enclose herewith a copy of the patent application and figures as filed in the Patent Office, and a declaration for signing by all of the named inventors. Please read the enclosed materials and sign and date the declaration at the space indicated on page 6.

The enclosed declaration document should be signed and dated immediately, and returned to Morgan & Finnegan, LLP by return Federal Express delivery. For your convenience, we have provided a self-addressed return Federal Express envelope for your use in sending us the completed declaration document.

We will call you to ensure that you have received the application and declaration papers. We will expect to receive the signed and dated declaration within five (5) days after you have received it. Your prompt response is appreciated.

If you should have any questions concerning our request, or concerning any of the enclosed materials, please do not hesitate to call me at the above-listed direct-dial telephone number. Thank you for your assistance in this matter.

Sincerely,



Leslie A. Serunian

LAS:ah
Enclosures
cc: Richard C. Komson, Esq.

Best Available Copy

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ALFRED P. EWERT[†]
DAVID H. PFEFFER
HARRY C. MARCUS
ROBERT E. PAULSON
STEPHEN R. SMITH
KURT E. RICHTER
J. ROBERT DAILEY
EUGENE MOROZ
JOHN F. SWEENEY[†]
ARNOLD I. RADY[†]
CHRISTOPHER A. HUGHES
WILLIAM S. FEILER[†]
JANET DORE
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DAVID H.T. KANE
SIEGRUN D. KANE
TONY V. PEZZANO
ANDREA L. WAYDA
WALTER G. HANCHUK[†]
JOHN W. OSBORNE
BRUCE D. RADIN
ROBERT K. GOETHALS

345 PARK AVENUE
NEW YORK, NEW YORK 10154-0053

(212) 758-4800
FACSIMILE: (212) 751-6849
www.morganfinnegan.com

WASHINGTON OFFICE
1775 EYE STREET, N.W.
SUITE 400

WASHINGTON, D.C. 20006-2401
TEL.: (202) 857-7887
FACSIMILE: (202) 857-7929

WRITER'S DIRECT DIAL NUMBER:

(212) 415-8751

laserunian@morganfinnegan.com
February 26, 2001

COUNSEL
JEROME G. LEE
JOHN D. FOLEY
THOMAS P. DOWLING
JOHN A. DIAZ
ROGER S. SMITH
JOSEPH C. REDMOND, JR.[†]
DAVID A. LOEWENSTEIN
KATHLEEN E. McCARTHY
HERBERT BLECKER

JOHN D. MORGAN
1893-1939

GEORGE B. FINNEGAN, JR.
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DAVID V. ROSSI
GERARD A. HADDAD
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RICHARD W. BORK
KIMBER L. WILSON
JOHN T. MOEHRINGER
MARK J. SCHILDKRAUT
J. STEVEN RUTT[†]
CHRISTOPHER J. GASPAR[†]
SYBIL A. LOMBILLO
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GARRETH A. SAROSI
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KIMBERLY A. MULLER[†]
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SETH SILVERMAN

SCIENTIFIC ADVISORS
KATHRYN M. BROWN, PH. D
LESLIE A. SERUNIAN, PH. D.
DARRYL H. STEENSHA, PH. D.
JAMES P. DEMERS, PH. D.
SUNGHO HONG, PH. D.
CARYN DEMORATIUS, PH. D.
EVELYN M. KWON, PH. D.

WILLIAM E. SEKYI
RICHARD D. RATCHFORD, JR.
ANGUS GILL
BRIAN W. BROWN
ANNALISA LEONE
VINCENT P. DINAPOLI

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VIA FEDERAL EXPRESS

Sunil Pandit, Ph.D.
353 W. Side Drive
Apartment 202
Gaithersburg, MD 20878-3028

Tracking # 41848697372

Re: Patent Application of T. Keith et al.
U.S. Serial No. 09/627,937; Filed: July 28, 2000
**NOVEL HUMAN GENES RELATED TO RESPIRATORY
DISEASES AND OBESITY**
Our Reference: 2976-4036; GTC Reference: HUM00-22

and

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Our Reference: 2976-4037; GTC Reference: HUM00-23

Dear Dr. Pandit:

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NEW YORK, NEW YORK 10154-0053
(212) 758-4800
FACSIMILE: (212) 751-6849
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JOHN C. VASSIL
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BRUCE D. RADIN
ROBERT K. GOETHALS

RESIDENT PARTNERS IN WASHINGTON
MICHAEL S. MARCUS[†]
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TEL.: (202) 857-7887
FACSIMILE: (202) 857-7929

WRITER'S DIRECT DIAL NUMBER:

(212) 415-8751

laserunian@morganfinnegan.com
February 26, 2001

SCOTT D. GREENBERG
MARY J. MARRY
CINDY M. ZELSON
PETER N. FILL
KENNETH S. WEITZMAN
RICHARD STRAUSSMAN
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VIA FEDERAL EXPRESS

Sunil Pandit, Ph.D.
353 W. Side Drive
Apartment 202
Gaithersburg, MD 20878-3028

Re: Patent Application of T. Keith et al.
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Sunil Pandit, Ph.D.
February 26, 2001
Page 2

we enclose two (2) Assignment documents to be signed and dated for the two referenced patent applications. If possible, the Assignments should be executed in the presence of a Notary Public.

As for the declarations for these applications, we have enclosed herewith a self-addressed Federal Express Envelope for your use in returning the completed Assignment documents to us.

You may sign the declaration and Assignment documents for each of the applications on the same day. Please do not sign the Assignment document prior to signing the declaration document for each of the applications.

As before, we will expect to receive the signed and dated Assignment
within five (5) business days after you have received it. Your prompt response is appreciated.

If you should have any questions concerning our request, or concerning any of the materials that we have sent to you to date, you are requested to call me at the above-listed direct-dial telephone number. We appreciate your cooperation and assistance in this matter.

Sincerely,



Leslie A. Serunian

LAS:ah
Enclosures
cc: Richard C. Komson, Esq.



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WASHINGTON OFFICE
1775 EYE STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20006-2401

TEL.: (202) 657-7887
FACSIMILE: (202) 657-7929

WRITER'S DIRECT DIAL NUMBER:

(212) 415-8751

laserunian@morganfinnegan.com

March 7, 2001

JOHN C. VASSIL
ALFRED P. EVERETT
DAVID H. PFEFFER
JARRY C. MARCUS
ROBERT E. PAULSON
STEPHEN R. SMITH
KURT E. RICHTER
J. ROBERT DAILEY
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RESIDENT PARTNERS IN WASHINGTON

MICHAEL S. MARCUS†
JOHN E. HOEL†
STANLEY B. GREEN†

COUNSEL
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Dear Dr. Pandit:

This is in reference to our letters of February 14, 2001 and February 26, 2001 and to our repeated telephone calls and messages of February 15, February 19, February 20, February 27, and March 2, 2001 in connection with the declaration and

MORGAN & FINNEGAN, L.L.P.

Sunil Pandit, Ph.D.
March 7, 2001
Page 2

assignment documents sent to you for signing for the above-referenced patent applications, which were also sent to you.

This letter serves to confirm that in view of your non-responsiveness to our letters and telephone calls, you will not sign the declarations and assignments for these patent applications filed in the U.S. Patent and Trademark Office on June 28, 2001.

Sincerely,



Leslie A. Serunian

LAS:ah

cc: Richard C. Komson, Esq.

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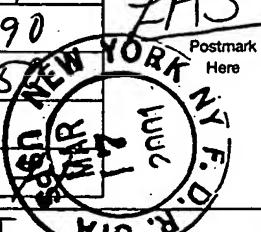
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- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write **Return Receipt Requested** on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Sunil PANDIT, PH.D.
353 W. SIDE DRIVE
APT. 202
GAITHERSBURG, MD 20878-3028

5. Received By: (Print Name)

X

6. Signature: (Addressee or Agent)

PS Form 3811, December 1994

Domestic Return Receipt

I also wish to receive the following services (for an extra fee):

1. Addressee's Address
2. Restricted Delivery
Consult postmaster for fee.

4a. Article Number

7000 1670 0007 2702 4852

4b. Service Type

Registered
 Express Mail
 Return Receipt for Domestic Use
 Insured
 COD

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

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Richard C. Komson
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154-0053

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Paper No. 7

JUN 14 2001

In re Application of : OFFICE OF PETITIONS
Keith, Little, Van Eerdewegh, Dupuis, : A/C PATENTS
Del Mastro, Simon, Allen, and Pandit : DECISION ACCORDING STATUS
Application No. 09/627,465 : UNDER 37 CFR 1.47(a)
Filed: July 28, 2000 :
Title: NOVEL HUMAN GENES
RELATED TO RESPIRATORY DISEASE
AND OBESITY

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 3, 2001.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Lesley Morris at (703) 306-0028.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

**COPY MAILED**

Sunil Pandit
353 W. Side Drive, Apt. 202
Gaithersburg, Maryland 20878

1 JUN 14 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Keith, Little, Van Eerdewegh, Dupuis, Del Mastro, Simon, Allen, and Pandit
Application No. 09/627,465
Filed: July 28, 2000
Title: NOVEL HUMAN GENES RELATED TO RESPIRATORY DISEASE AND OBESITY

Dear Mr. Pandit:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Lesley Morris at (703) 306-0028. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Richard C. Komson
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154-0053